



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/764,111

01/23/2004

Samuel P. Hopkins

4090.1006-000

7881

21005

7590

03/24/2009

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

530 VIRGINIA ROAD

P.O. BOX 9133

CONCORD, MA 01742-9133

EXAMINER

NGUYEN, QUANG N

ART UNIT

PAPER NUMBER

2441

MAIL DATE

DELIVERY MODE

03/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/764,111

Applicant(s)

HOPKINS, SAMUEL P.

Examiner

QUANG N. NGUYEN

Art Unit

2441

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-46 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Detailed Action

1. This Office Action is responsive to the Preliminary Amendment filed on 01/21/2005. Claims 35-46 have been added as new claims. Claims 1-46 are presented for examination.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-9, 26-34, 36, 40 and 46 are drawn to a method **for monitoring search requests** for selected objects by a node on a peer to peer network having at least two nodes, said method comprising the steps of: monitoring said network to detect requests matching said at least one of said stored objects, classified in class 709, subclass 224 (**Computer Network Monitoring**).

II. Claims 10-15 are drawn to a method **for calculating statistics for search requests and responses** for selected objects by a node on a peer to peer network having at least two nodes, said method comprising the steps of: using said detected requests and responses to calculate statistics (wherein the statistics are calculated are business loss statistics), classified in class 705, subclass 7 or 11 (**Operations Research/Job Performance Analysis**).

III. Claims 16-21 and 41-45 are drawn to a method **for viewing available files on a specific node** on a peer to peer network having at least two nodes, said method comprising the steps of: requesting a specific node upload a file index number starting at N, where N is a real number, to said pseudonode; and incrementing the file index number and repeating the request until such time as the specific node no longer responds, classified in class 707, subclass 205 (**File or Database Maintenance/File Allocation**).

IV. Claims 22-25 are drawn to a method **for obtaining attribute information on nodes** on a peer to peer network having at least two nodes, said method comprising the steps of: sending at least one search request containing specific or generic terms or by forwarding on real requests from other nodes from said pseudonode; and recording requested attribute information of those nodes that respond, classified in class 709, subclass 226 (**Network Resource Allocating**).

V. Claims 35 and 37-39 are drawn to a method **for advertising (and for identifying terrorist activity)** on a peer to peer network having at least two nodes, said method consisting of: monitoring said network through at least one of pseudonode to detect requests (and responses); and responding with information that is used to advertise a product or service (data mining said detected requests or responses for terrorist information or patterns), classified in class 707, subclass 3 (**Query Processing, i.e., searching**).

3. The inventions are distinct, each from each other because of the following reasons:

Inventions Group I, II, III, IV and Group V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable.

In the instant case, invention Group I has separate utility such as **for monitoring search requests by monitoring said network to detect requests matching said at least one of said stored objects**, classified in class 709, subclass 224 (**Computer Network Monitoring**).

Invention Group II has separate utility such as **for calculating statistics for search requests and responses by using said detected requests and responses to calculate statistics (wherein the statistics are calculated are business loss statistics)**, classified in class 705, subclass 7 or 11 (**Operations Research/Job Performance Analysis**)

Invention Group III has separate utility such as **for viewing available files on a specific node by requesting a specific node upload a file index number starting at N, where N is a real number, to said pseudonode; and incrementing the file index number and repeating the request until such time as the specific node no longer responds**, classified in class 707, subclass 205 (**File or Database Maintenance/File Allocation**).

Invention Group IV has separate utility such as **for obtaining attribute information on nodes** by sending at least one search request containing specific or generic terms or by forwarding on real requests from other nodes from said pseudonode; and recording requested attribute information of those nodes that respond, classified in class 709, subclass 226 (**Network Resource Allocating**).

Invention Group V has separate utility such as **for advertising (and for identifying terrorist activity)** monitoring said network through at least one of pseudonode to detect requests (and responses); and responding with information that is used to advertise a product or service (data mining said detected requests or responses for terrorist information or patterns), classified in class 707, subclass 3 (**Query Processing, i.e., searching**). See MPEP § 806.05(d).

4. The inventions are distinct, each from each other because of the following reasons:

a. These inventions have acquired a separate status in the art as shown by their different classification and their recognized divergent subject matter.

b. The search required for one Group is not required for the other Groups.

For the reasons above, restriction for examination purposes as indicated is proper.

5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Applicant is requested to formally cancel the non-elected claims.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. Applicant is also advised that the response must be submitted to the Office within 30 calendar days.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang N. Nguyen whose telephone number is (571) 272-3886.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's SPE, Rupal Dharia, can be reached at (571) 272-3880. The fax phone number for the organization is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quang N. Nguyen/
Primary Examiner, Art Unit 2441